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Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. GRASSLEY).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, we continue to trust the power of Your prevailing providence. In times of trouble, You keep us safe from harm. You strengthen us when all seems lost, enabling us to reach Your desired destination without stumbling or slipping.

Lord, Your plans are fulfilled in spite of our enemies. Surround our Senators with the shield of Your divine favor. Lord, inspire them to rejoice in Your might because of Your victorious guidance. Keep them from the paths of disgrace.

Look with favor, O Lord, upon us all, and may our service ever be acceptable to You.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

The PRESIDING OFFICER (Mrs. HYDE-SMITH). The Senator from Iowa.

Mr. GRASSLEY. Madam President, I ask unanimous consent to speak for 1 minute in morning business, please.

The PRESIDING OFFICER. Without objection, it is so ordered.

FILIBUSTER

Mr. GRASSLEY. Madam President, those on the other side of the aisle who openly say they will end the filibuster if they get the majority should have to explain why they continue to vote to filibuster important issues like police

reform and COVID relief. Do they somehow believe the filibuster is wrong in principle, or do they admit that they think there should be two sets of rules depending on which political party has the majority in the Senate?

If you think at a minimum that the filibuster should be used sparingly and judiciously, how do you justify voting to block even moving, even discussing, let's say, for instance, Senator SCOTT's police reform bill when you have been promised amendments by the majority leader and when you can always filibuster final passage if you still aren't satisfied after the bill has been discussed for a long period of time and a lot of amendments have been adopted? It is clear their position on filibuster is pure partisanship at its worst.

If there is any way you are going to promote the bipartisanship that the people are demanding, it is only in this institution of the Senate, where it requires 60 votes to get to finality on a bill and where you have pressure to do things in a bipartisan way or nothing gets done.

I yield the floor.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER. The majority leader is recognized.

SUPREME COURT NOMINATIONS

Mr. McCONNELL. Madam President, I explained yesterday how moving ahead on a vote on the forthcoming Supreme Court nomination will be consistent with both history and precedent.

When an election-year nomination to fill an election-year vacancy occurs in a divided government, with a Senate and a President of different parties, the historical norm is that such nominations are not confirmed. But the times this has happened after the American people have elected a Senate majority

to work alongside the same-party President, every such nominee has been confirmed, save one bizarre exception of a nominee who had corrupt financial dealings. Let me say that again. Except for Justice Abe Fortas and his ethical scandals, every single nomination in American history made under our present circumstances has ended in a confirmation—seven out of eight.

That is the thing about facts and history. Angry rhetoric does not change them. Partisan finger-pointing does not alter them. Facts simply exist. They are there for everyone to see. History and precedent were on this Senate majority's side in 2016, and they are overwhelmingly on our side now.

If we go on to confirm this nomination after a careful process, then both in 2016 and in 2020, this Senate will simply have provided the typical, normal outcome in each scenario. Think about that fact and then weigh it against the outcry and hysteria that has already erupted on the far left.

Yesterday, the Democratic leader announced on the floor that if the Senate holds a vote on the forthcoming nomination it would "spell the end of this supposedly great deliberative body." Spell the end of this supposedly great deliberative body? That is what he said. It would be the death of the Senate if a duly elected majority of the U.S. Senate exercises its advice and consent power as it sees fit. That is what Senates do. It is our job description. Presidents makes nominations as they see fit, and Senate majorities either provide or withhold advice and consent as we see fit. But now our Democratic colleagues tell us that the Senate doing normal senatorial things would "spell the end" of this institution—whatever that may mean.

The Democratic leader is not alone in these pronouncements. Chairman JERRY NADLER of the House Judiciary Committee has already announced that if the Senate majority dares to act like

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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a Senate majority, future Democrats should “immediately move to expand the Supreme Court.”

From another colleague:

If [they hold] a vote in 2020, we pack the court in 2021. It's that simple.

Speaker PELOSI intimated on television last weekend that she may consider launching a new frivolous impeachment simply to tie up the Senate's time. She said: “We have our options.”

The junior Senator from Massachusetts said Democrats “must abolish the filibuster and expand the Supreme Court.”

The junior Senator for Hawaii said: “All of those matters will be on the agenda.”

The senior Senator from Connecticut said: “Nothing is off the table.”

Just yesterday, former Vice President Biden himself refused to rule out that he might seek to pack the Supreme Court.

Bear in mind, none of them assert this majority would be breaking any Senate rule by holding this vote; it is just that our Democratic friends worry they might not like the outcome.

For some reason, they cannot bear to see Republicans governing within the rules as Republicans—doing exactly what Americans elected us to do. So they threaten to wreck the makeup of the Senate if they lose a vote and to wreck the structure of the Court if somebody is confirmed whom they oppose.

It has been interesting to watch our colleagues try to recast their disturbing threats as somehow tied to this Supreme Court vacancy. No one should fall for this trick. Democrats have already been threatening these actions for months. This isn't anything new.

Our colleagues now say that “nothing” would be “off the table” if a new Justice were to be confirmed. They want badly for people to believe these are new threats that Democrats would take off the table—would take off the table—if Republicans would just help them sink President Trump's nominee. Let me say that again. They want badly for people to believe these are new threats that Democrats would take off the table if Republicans would just help them sink President Trump's nominee.

Let me read another quotation. This is the junior Senator from California speaking, our distinguished colleague who is now running for Vice President:

We are on the verge of a crisis of confidence in the Supreme Court. We have to take this challenge head on, and everything is on the table to do that.

Sound familiar? Of course it does. Our colleague made that remark in March of 2019—in March of 2019.

These threats are not new. They have nothing to do with this new vacancy. Democrats have already been playing this game for more than a year and a half.

It was more than a year ago that several Senate Democrats threatened the

Supreme Court in a written brief. They said: “The Court is not well [and] perhaps the Court can heal itself before the public demands it be ‘restructured.’”

It was more than a year ago that Democrats, competing for their party's Presidential nomination, made court-packing a central element in their platforms.

It was more than 6 months ago that the Democratic leader appeared across the street outside the Court and threatened specific Justices if they did not rule his way.

For goodness' sake, the junior Senator from Maryland came right out and admitted this yesterday. Someone asked him whether he would support these acts of institutional vandalism if a nominee is confirmed this year, and he helpfully pointed out: “I've always said I'm open, even before this seat opened . . . [those] possibilities were on the table before we got to this point,” thereby proving my point.

These threats are not new. They have nothing to do with this vacancy.

Our friend the junior Senator from Delaware said on television this Sunday that he wants to persuade Republicans to forgo filling this vacancy, but all the way back in June—long before 5 days ago—he himself notably refused to rule out breaking the Senate's rules to kill the filibuster.

There is no degree to which rewarding these threats would buy the Nation any relief from this. There is nothing you can give them to stop all the threats. There is no “deal” that would stop these dangerous tactics. Giving in to political blackmail would not do a thing to secure our institutions. You do not put a stop to irresponsible hostage-taking by making hostage-taking a winning strategy.

I will tell you what really could threaten our system of government. It is not Senate Republicans doing legitimate things squarely within the Senate rules and within the Constitution that Democrats happen to dislike—no, no. What could really threaten our system is if one of our two major parties continues to pretend the whole system is automatically illegitimate whenever they lose; if they continue to act like, for their side of the aisle, a legitimate defeat is an oxymoron. That is the danger to our democracy.

Every one of these attacks on our institutions only underscores how important they are. Every threat to turn our courts into a political tug-of-war only reinforces why the Senate is charged with protecting our independent judiciary and why this majority's work with President Trump on this task is so crucial.

The President plans to use the power the voters gave him to make a nomination. Senators will use the power the voters gave us to either provide or withhold consent as we see fit. The only ones responsible for those threats will be the people making them.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

SUPREME COURT NOMINATIONS

Mr. SCHUMER. Madam President, tomorrow the recently departed Supreme Court Justice Ruth Bader Ginsburg will lie in repose at the Supreme Court, and on Friday Ruth Bader Ginsburg will lie in state here in the Capitol, the first time in our Nation's long history that a woman has ever received the honor.

I can think of no more fitting tribute for a woman who made a life's work of going where women had never gone before. Even with the benefit of a few days, the loss of Justice Ginsburg is devastating. You need only walk by the Supreme Court today, where flowers, candles, chalk-written notes, and spontaneous demonstrations have clogged the sidewalks for 4 days straight, to know her impact on this country.

We will honor her this week, and, by all rights, we should honor her dying wish, imparted to her granddaughter, that she “not be replaced until the next President is installed.” All the words and encomia for Justice Ginsburg from the other side ring hollow if they will not honor her last dying wish.

Yesterday, the Republican side—so often, President Trump—seemed to make it worse. President Trump mocked Justice Ginsburg's dying wish by insinuating that her granddaughter was a liar, once again confirming every terrible thing we know about our President.

He said that Justice Ginsburg's statement was something that “sounds like a Schumer deal or maybe Pelosi or shifty Schiff.” That is the President of the United States baselessly suggesting that Democrats fabricated the dying wish of the late Justice Ginsburg. It was a coarse, shameful, lying insult to the late Justice Ginsburg and to her family.

If the President had a shred of human decency—even a little—he would apologize, but we all know he will not. Everyone here in the Senate ought to be disgusted by the President's comments. How low can this President go? He knows no depth. You can never know that.

You would think that, after the Republican majority led a historic blockade just 4 years ago to keep open a vacancy on the Supreme Court because it was an election year, they would have the honor and decency to apply their